

Application No.: 09/963,513

Docket No.: 22135-00013-US

REMARKS***Introduction***

Receipt of the Office Action mailed September 24, 2004 is acknowledged. The present amendment amends claim 1 in formal regards to clarify the nature of the claimed food additive. Support for the amendment can be found throughout the specification and claims, for example, on page 6, lines 10+ and page 4, lines 20-23. No new matter has been added. Entry of the amendment and favorable reconsideration are earnestly solicited.

Claim Rejections – 35 USC § 103

Claim 1-2, 8-10, 13 and 17-19 have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over JP 406261673A in view of Crevasse [Patent No. 5,215,495].

Claims 11-12 and 16 have been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over JP 406261673A, in view of Crevasse, as applied above, and further in view of Kubo et al [Patent No. 4,428,402].

Claims 3-6 and 14-15 have been rejected under 35 U.S.C. 103(a) as being unpatentable over JP 406261673A, in view of Crevasse, as applied above, and further in view of EP 340776A1.

Claim 7 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over JP 406261673A, in view of Crevasse, as applied above, and further in view of JP 51079748A.

These rejections are respectfully traversed for at least the following reasons. Applicants have amended the claims to clarify the nature of the food additive. Namely, claim 1 recites that the additive imparts a color, an odor, an aroma, and/or a flavor to the casing. It is respectfully submitted that none of the references being relied upon taken teach or suggest the claimed casing with this feature. Namely, the Examiner admits that JP 406261673A and Crevasse do not teach or suggest such an additive. The Examiner has stated that because EP 340776A1 teaches a casing comprising liquid smoke (page 5, line 50), caramel (page 13, line 15), and zein (page 14, line 32), it supposedly would have been obvious to one of ordinary skill in the art to incorporate

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the features of EP 340776A1 into the invention of JP 406261673A, in view of Crevasse, since all are directed to casings, since JP 406261673A already included a coating (Figures 2), and since the liquid smoke, caramel, and zein of EP 340776A1 allegedly provided an effective means for coloring and flavoring the casing. Applicants respectfully disagree.

JP 673A teaches a casing stick which is turned inside-out during filling. However, the only component disclosed as being on the outer surface of JP's casing is glycerin. Glycerin is a colorless liquid without any odor. Contrary thereto, the food additives on the outer surface of the presently claimed casing are one or more of an aroma, an odor, color or flavor. Thus, there is simply no motivation to include such an additive provided by the JP.

The other references cited fail to provide for this deficiency of the JP. Namely, Crevasse fails to teach or suggest food additives which impart color, odor, aroma or flavor to the foodstuff. With respect to the EP reference, although it includes a disclosure of liquid smoke, caramel and zein, such an arrangement would not be capable of evenly transferring an odor, aroma, color and/or flavor evenly to a foodstuff therein. That is, EP '776 discloses a food casing comprising a discontinuous layer of water soluble dry colorant, such as caramel, and a binder-sealant layer superimposed over and entirely enclosing the colorant layer top surface (p. 3, l. 28-31). There is simply no teaching in the EP reference that the water-soluble colorant could be admixed with a binder. Indeed, EP '766 teaches away from such an arrangement by stating that the colorant layer is made up of water-soluble organic dyes. EP '766 also discloses liquid smoke (p. 5, l. 49) as an optional further ingredient. However, liquid smoke is not listed among the colorants which are used to produce the color indicia. There is no teaching or suggestion that the liquid smoke should be applied to the outer surface in the manner as claimed. Thus, the instant claim 1 as well as all the remaining claims dependent thereon are believed to be allowable over the references being relied upon.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Applicant hereby authorizes the Commissioner to please charge our Deposit Account No. 22-0185, under Order No. 22135-00013-US in the amount of \$120 for a one month extension of time, and any other fees deemed necessary, from which the undersigned is authorized to draw.

Dated: January 24, 2005

Respectfully submitted,

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